

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRANKLIN C SMITH,

Petitioner,

v.

LEVI DEMINGUEZ,

Respondent.

Case No. 2:24-cv-00051-DGE-TLF

ORDER TRANSFERRING
PETITION

Petitioner has presented to this Court for filing a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner indicates in his petition that he is currently incarcerated pretrial in Sheridan County Jail in Sheridan, Wyoming. Dkt. 3-1 at 1. He indicates that he is challenging his detainment in that facility, where he is being held pursuant to municipal charges. *Id.* at 2.

Federal courts have authority to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2241(a). The court issuing the writ must have personal jurisdiction over the custodian. *See Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 495 (1973).

Without personal jurisdiction, the court has no authority to direct the actions of the restraining authority. *Malone v. Calderon*, 165 F.3d 1234, 1237 (9th Cir. 1999). The court has personal jurisdiction over the custodian if the court can reach the custodian by service of process. *Braden*, 410 U.S. at 495. Thus, where the petitioner names a

1 respondent who is outside the district court's territorial limits, the court lacks personal
2 jurisdiction to consider the petition. See *Malone*, 165 F.3d at 1237.

3 Here, petitioner has named Levi Dominguez, Sheriff of the Sheridan County Jail,
4 as respondent. Respondent is outside this District's territorial limits, and the Court lacks
5 jurisdiction over them. Accordingly, the Court does not have jurisdiction to consider this
6 petition.

7 If a petitioner files a habeas petition in a district court that lacks jurisdiction, that
8 court should transfer the petition to a court with jurisdiction "if it is in the interest of
9 justice." 28 U.S.C. § 1631; see *Miller v. Hambrick*, 905 F.2d 259, 262 (9th Cir. 1990).
10 Transfer is normally in the interest of justice because dismissing an action that could be
11 brought elsewhere is "time-consuming and justice-defeating." *Id.* (quoting *Goldlawr,*
12 *Inc. v. Heiman*, 369 U.S. 463, 467 (1962).

13 The Court finds that it is in the interest of justice to transfer this case to the
14 District of Wyoming. A habeas petition is properly filed in either the district of conviction
15 or the district of confinement. 28 U.S.C. § 2241(d).

16 Accordingly, the Court hereby ORDERS as follows:

- 17 (1) The Clerk shall TRANSFER this case to the District of Wyoming, in the
18 interests of justice under 28 U.S.C. § 1631. The Clerk is directed to close
19 this case and transfer all original documents to the District of Wyoming.

20 Dated this 14th Day of February, 2024.

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23 Theresa L. Fricke
24 United States Magistrate Judge
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